

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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March 26, 1998

VIA FACSIMILE AND OVERNIGHT MAIL

Hon. Magalie Roman Galas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RE: New York Department of Public Service Petition
For Expedited Waiver of 47 C.F.R. 52.19(c)(3)(ii)
CC Docket No. 96-98, NSD File No. L-98-03

Dear Secretary Galas:

Enclosed are five copies of a recent New York Public Service Commission Order in which activation of the new area code for Manhattan (646) has been postponed pending resolution of the above-noted proceeding.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence G. Malone".

Lawrence G. Malone
General Counsel
New York State
Department of Public Service
Three Empire State Plaza
Albany, New York 12223

cc: To All Parties

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on March 18, 1998

COMMISSIONERS PRESENT:

John F. O'Mara, Chairman
Maureen O. Helmer
Thomas J. Dunleavy
James D. Bennett

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MAR 17 1998

FCC 10-1-1998

CASE 96-C-1158 - Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Evaluate the Options for Making Additional Central Office and/or Area Codes Available in the 212 and 917 Area Codes of New York City.

ORDER APPROVING POSTPONEMENT
OF ACTIVATION DATE

(Issued and Effective March 25, 1998)

BY THE COMMISSION:

In Opinion No. 97-18 (issued December 10, 1997) in this proceeding, we directed Bell Atlantic - New York (BA-NY) to activate a new area code overlay (area code 646) in Manhattan by April 1, 1998. By letter dated January 9, 1998, BA-NY advised that it is unable to do so pending resolution of our petition before the Federal Communications Commission concerning 7-digit versus 10-digit dialing for intra-area code calls. The issues are more fully explained in a March 5, 1998 Staff memorandum, which is attached to this Order. Based on the recommendation of that memorandum, the Commission will relieve BA-NY of the requirement to activate the 646 area code pending a resolution of the 7-digit/10 digit dialing.

The Commission orders:

1. The activation date of the 646 area code is hereby postponed, pending a resolution of the 7-digit/10-digit dialing requirement for intra-area code calls.

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

FILED-SESSION OF MAR 18 1998

March 5, 1998

TO: THE COMMISSION

FROM: COMMUNICATIONS DIVISION
CONSUMER SERVICES DIVISION
OFFICE OF GENERAL COUNSEL

SUBJECT: Case 96-C-1158 - Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Evaluate the Options for Making Additional Central Office and/or Area Codes Available in the 212 and 917 Area Codes of New York City: Implementation and Compliance Issues.

SUMMARY

By letter dated January 9, 1998, Bell Atlantic - New York (BA-NY) informed staff that it is unable to activate the new 646 overlay area code in Manhattan by April 1, 1998, as directed by the Commission in its December 10, 1997 order in the above-noted proceeding. The company's letter indicates that its inability is primarily due to a conflict between the December 10 order and federal regulations which require 10-digit dialing for calls within area codes when overlays are used for numbering relief. This conflict is currently the subject of a Department petition before the Federal Communications Commission (FCC). Until the FCC rules on our petition, BA-NY believes that it is not in a position to make all appropriate network modifications and/or undertake customer outreach and education since the specifics on the number of digits to be dialed when placing calls within area codes have not yet been finalized.

Staff recommends that the Commission permit postponement of the activation of the new overlay area code, 646, for Manhattan pending resolution of the 7-digit/10-digit dialing requirement. BA-NY should also file its outreach and education plans within two weeks of a resolution of the dialing issue.

BACKGROUND

Ordering Clause 1 of Commission's Opinion No. 97-18 (issued December 10, 1997) in Case 96-C-1158 directs BA-NY to take the steps necessary to activate the 646 area code as an overlay to Manhattan's existing 212 area code effective April 1, 1998. Further, Ordering Clause 2 directs the company to file within 30 days of the order its plan for outreach and education to acquaint the public with the 646 area code and its operation. The Order also provides for a new 347 overlay area code effective January 1, 1999, to the existing 718 area code serving the outer boroughs of the city.

The Opinion and Order also contemplates the following: (i) continued 7-digit dialing for calls within area codes after implementation of the 646 overlay area code during a one year period ending April 1, 1999 after which 10-digit intra area code dialing would be required unless a waiver of 10-digit intra area code dialing is obtained from the FCC, and (ii) implementation of a three month permissive dialing period beginning January 1, 1999 on a city-wide basis during which time intra area code calls could be dialed on either a 7 or 10-digit basis (absent a waiver from the FCC on 10-digit dialing).

By letter dated January 9, 1998, BA-NY informed staff that it is unable to meet this schedule. It states that there is a conflict between the federal requirements that, absent a waiver, require BA-NY to provide mandatory ten-digit dialing at the time it implements the 646 area code overlay. Specifically, federal regulations [47 C.F.R. & 52.19(c)(3)(ii)] state that: "No area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing..."¹ BA-NY considers that this federal requirement renders it unable to perform the necessary network related activities to implement the 646 overlay area code using 7-digit home area code dialing.

¹ In a similar waiver request by Pennsylvania, the FCC permitted a six month delay in requiring mandatory 10-digit dialing for home area code dialing.

In order to spare consumers the burden of mandatory ten-digit home area code dialing, on January 9, 1998, the New York State Department of Public Service (NYSDPS) filed a petition with the FCC for expedited waiver of the ten-digit dialing requirement. The FCC received our petition on January 12, 1998; it immediately established a comment cycle on January 13, 1998 with initial comments due on January 23, 1998 and reply comments due on January 28, 1998. Our petition was also the subject of discussions at a February 9, 1998 call-in conference of the North American Numbering Council. Thereafter, on February 12, 1998, the FCC requested additional data from the Staff and New York Telephone Company. Requested data, to the degree it was available, was submitted to the FCC on February 23, 1998. Other parties were given until March 2, 1998 to respond thereto. While we are unable to predict precisely when the FCC will act, we expect its decision within the next several weeks.

DISCUSSION

(i) 7-Digit/10-Digit Intra Area Code Dialing:

In its letter, BA-NY states that it is unable to implement the 646 overlay area code with continued 7-digit intra area code dialing by April 1, 1998, and meet the FCC's requirement of 10-digit local dialing at the time an overlay area code is introduced. Staff agrees.

Staff originally recommended delaying mandatory 10-digit intra area code dialing until April 1, 1999, a point in time when the entire city would be served by overlay area codes and all consumers in the city could be instructed on the new dialing arrangements (absent a waiver from the FCC). However, the FCC's Second Report and Order, as referenced above, requires mandatory 10-digit dialing when the 646 overlay area code is introduced, and not on a city-wide basis at a later time when the 347 overlay area code is also introduced.

(ii) Outreach and Education:

Further, BA-NY states that it cannot submit an outreach and education plan unless or until it is sure of the method by which home area code calls are to be dialed. This, too, is a

reasonable statement from staff's perspective. The company offers to file a plan for staff's review as soon as the FCC rules on our waiver petition. Staff believes that the company should file such a plan within two weeks of a resolution of this issue so as to allow expeditious undertaking of outreach efforts as well as to provide adequate time for rearrangements to consumer telephone equipment such as alarm systems, and switchboards.

(iii) Permissive Dialing:

The company's letter also suggests that a six month permissive dialing period is necessary for customer education if home area code calls are to be dialed on a 10-digit basis. While this is not necessarily a requirement and a shorter period of, say, three months may be possible (three months beginning January 1, 1999 was specified in the Commission's order), staff believes that a six month period is more reasonable from a consumer perspective.

However, the permissive dialing period could be left as originally ordered. While leaving the permissive period at three months might make it more difficult for consumers to make modifications to their equipment, the shorter period also allows time for exploring other viable options, should the FCC rule unfavorably on our petition.

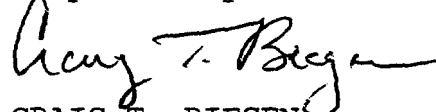
(iv) Postponement of the Activation Date for the 646 Overlay Area Code:

In any event, BA-NY claims that even absent the state/federal regulatory conflict on intra area code dialing, there is not enough time to complete the network related changes to activate the 646 overlay area code by April 1, 1998. This point is probably moot at this time since the company's letter also indicates that in the face of the regulatory conflict on intra-area code dialing, it has not proceeded expeditiously with network modifications. Therefore, the April 1, 1998 implementation date for the 646 area code is now unattainable, in any event.

RECOMMENDATION

It is recommended that the Commission permit postponement of the activation date of the 646 area code and submission of a customer education and outreach program pending a resolution of 7-digit/10-digit dialing requirement for intra area code calls.

Respectfully submitted,



CRAIG T. BIEGEN
Associate System Planner

Reviewed by,

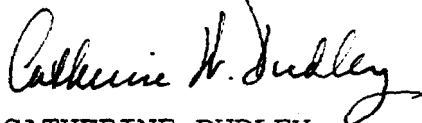


YOG R. VARMA
Chief System Planner

Approved by,



ALLAN H. BAUSBACK
Acting Director
Communications Division



CATHERINE DUDLEY
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Consumer Services Division



LAWRENCE G. MALONE
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